

# Whips on standby as Tory MPs say Brexit bill gives government too much power

Conservative anger as No 10 vetoes amendments  
PM given only cautious backing over future

Jessica Elgot

Theresa May will face a testing week as parliament returns tomorrow, with Conservative whips braced for battles with newly emboldened party rebels over the EU repeal bill.

The prime minister and the Brexit secretary, David Davis, warned MPs yesterday that obstructing the bill’s passage with amendments risked a victory for Jeremy Corbyn. But some Conservatives insisted they had legitimate concerns about the extent of the bill’s powers.

The European Union (withdrawal) bill, which will have its second reading on Thursday, is intended to transpose EU legislation into British law from the day the UK leaves the EU, but it is set to involve extensive use of “Henry VIII powers” – laws that let ministers change legislation without the usual parliamentary scrutiny.

Critics say the bill will allow government ministers sweeping powers to change key areas of the law, though Davis has insisted the powers will only be used for technical purposes.

The former constitution minister John Penrose said there was a delicate balance to be struck between the flexibility required to cope with Brexit and the fundamental role of parliament in scrutinising the changes.

He hoped ministers would hear legitimate concerns from MPs about an overreach of powers. “The current draft of the repeal bill gives lots of power to ministers so we can deliver Brexit – which is essential – but it cuts parliament’s role right down,” he said. “Ministers have already said they don’t want this bill to be a power grab, so I’m sure they will listen and bring forward their own changes as the bill goes through parliament.”

Other Conservative MPs reacted angrily to demands from Number 10 that they should not seek to table amendments to the repeal bill when it reaches committee stage in October.

Any amendments from pro-remain Tories calling for Britain to remain in the single market or customs union are likely to attract support from Labour and Liberal Democrat MPs.

Lib Dem Brexit spokesman Tom Brake said yesterday he had written to 21 Conservative Eurosceptics who signed a joint letter in January 2016 calling for parliamentary sovereignty to be put at the heart of David Cameron’s renegotiations, asking them to reconsider their position on the repeal bill, given its implications.

The letter reads: “To deny the importance of parliamentary sovereignty in relation to this bill would be hypocritical



Theresa May attends a morning church service in Reading with her husband Philip yesterday. Below: David Davis, who urged MPs to support the repeal bill  
Photograph: Pete MacLaine/i-Images



cal and inconsistent with your previous stance.” Davis, who is to give a statement to the Commons tomorrow, said all MPs had an interest in the bill succeeding. “Everything in terms of significant change will be done in separate primary legislation, from immigration bills to customs bills. Anybody, remainder or leaver, should support this bill,” he said.

“This bill is there in order to enable continuity, if you want a soft Brexit ... this is the bill you should be supporting. It takes the laws there now and puts them in place the day after we leave. It’s not a question of national politics.”

Mark Price, the former Waitrose boss, yesterday resigned as international trade minister, amid reports he had been at odds with the government on Brexit policy. The Tory peer was replaced by the MP Greg Hands. Price said he had resigned to pursue “business and writing interests”.

Hands said the peer’s position was “always going to be a time-limited period, his time in government. It was very good

of him to join us.” Asked on BBC Radio 5 live if Price might have had issues with the government’s approach, Hands side-stepped the question. “Lord Price has been a key part of the whole strategy,” he said.

Andrew Adonis, the former Labour minister and government infrastructure adviser, said it was clear Price had found it “impossible to justify or explain the government position” from the dispatch box in the House of Lords.

Over the weekend, cabinet and ministerial colleagues gave cautious support for the prime minister’s insistence last week that she would serve a full term in Number 10 and planned to fight the next election. Davis called May a “great prime minister” when asked by the BBC’s Andrew Marr but stopped short of giving her an endorsement to lead the party into the election.

Hands told BBC Radio 5 live “five years is a long time in politics”.

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## Efta court chief in visit to UK to push merits of ‘Norway model’

Patrick Wintour  
Diplomatic editor

An unusual judge-led drive to persuade the UK government to resolve the Brexit crisis by joining the European Free Trade Association (Efta), the so-called Norway model, is to be promoted by the head of the Efta court himself in a series of speeches in London this month.

The president of the Efta court, Carl Baudenbacher, has also held talks with Japanese officials in Tokyo to discuss how Efta might help create the predictable Brexit Japanese industry wants. His visit to Tokyo coincided with that of Theresa May last week, when the prime minister was pressed to set out how a Brexit Britain would relate legally to the single market.

Remain MPs and some Eurosceptic ones are arguing the UK could join Efta either as a permanent solution to its post-Brexit conundrum, or during the two- to four-year transition now accepted by the cabinet and opposition.

Baudenbacher will speak to Brexit legal specialists in parliament on 13 September and at Chatham House, the foreign policy thinktank, the day after setting out how the Efta court could provide the solution to the impasse between the UK and the European Union. He is treading carefully so as not to be seen to be interfering in an internal dispute, but has held talks with the Brexit secretary, David Davis.

Baudenbacher is keen to raise understanding of how his court works and to

Carl Baudenbacher, Efta court president, thinks the British government does not understand Efta’s independence from the ECJ



challenge the view it is simply a vehicle to implement decisions of the European court of justice (ECJ) – the EU’s primary court, which May has pledged Britain will leave to regain national sovereignty.

He has already criticised a UK position paper on the future resolution of disputes between the UK and the EU post-Brexit as failing to understand the independence of Efta from the ECJ. Baudenbacher’s Efta court is the equivalent of the ECJ for Norway, Iceland and Liechtenstein, which are part of the European Economic Area but not members of the EU. Its three judges oversee the application of EEA law (a copy of many EU laws) in those countries.

The UK has previously said it would not join a court that worked in parallel with ECJ rulings and wants to establish a UK arbitration court that takes into account ECJ jurisprudence. But many legal experts believe it will not be possible to agree and establish a totally new dispute mechanism by spring 2019 when the UK is due to leave the EU, making Efta the best compromise.

## Labour warns May over key repeal bill

Jessica Elgot  
Political reporter

Labour’s Keir Starmer has warned Theresa May the government will face a battle on the first Commons vote on controversial Brexit legislation unless she answers concerns about accountability.

The shadow Brexit secretary said the party would not hand May “a blank cheque” over the repeal bill, which is to have its second reading when parliament returns next week, which he said would give ministers “very wide powers” that could override parliamentary scrutiny.

Asked if his party would vote against the bill, which is intended to transpose EU law directly into UK law from when Britain leaves the European Union, Starmer said: “We haven’t reached that stage yet but whilst we accept the result of the referendum we are not giving a blank cheque to the government to do it in whichever way it wants because it is not in the public interest.”

The process of transposing EU law to UK law will involve extensive use of “Henry VIII powers” – laws that allow ministers to change primary legislation using secondary legislation without parliamentary scrutiny.

Ministers including the Brexit secretary, David Davis, have insisted the powers will be used only to make technical changes

to make the EU laws applicable to the UK. TUC president, Frances O’Grady, said MPs had a duty to ensure crucial workers’ rights derived from EU law, such as paid leave, health and safety protections and parental leave were protected.

Under the bill, changes to employment and equality law could be made through changing regulations, which does not require parliamentary oversight.

Writing in the Guardian, O’Grady said the repeal bill left some of those hard-

### Leavers want migrants

Four in five leave voters would accept migration of high-skilled EU workers increasing or remaining the same, according to new research, though both remain and leave supporters back a reduction of low-skilled workers.

More than a third of those surveyed by the thinktank British Future said they would like to see numbers of high-skilled workers increase, with just under half satisfied with current levels.

The poll found wide support from both leave and remain voters for a new immigration policy which would cap the number of low-skilled migrants arriving but ease the path for specialist workers. Jessica Elgot

won rights open to legal challenge. “It would give imaginative lawyers acting for unscrupulous employers the opportunity to whittle down our rights through endless legal challenges.

“Most at risk are the rules that protect small groups of vulnerable workers – which are far easier to pick off,” she wrote.

No 10 has told pro-remain Conservative rebels that they risk allowing Labour and Jeremy Corbyn to capitalise if they block the bill’s passage through the Commons.

However, Starmer may also face dissent from Labour colleagues, some of whom fear blocking the bill might be seen as obstructing Brexit. Senior Labour MPs have also sounded alarm over comments by the Labour deputy leader, Tom Watson, who suggested last week that membership of the single market “might be a permanent outcome of the negotiations”.

Caroline Flint, the shadow energy secretary, said she did not want the party to adopt any position that voters might view as attempting to reverse the referendum decision, saying there were some Labour colleagues who wanted to “delay the inevitable”.

Flint, whose Don Valley constituency voted 68% in favour of leaving the EU last June, said “I’m not going to be involved in wrecking for wrecking’s sake.”

Frances O’Grady, page 23 →

## British need to be taught Brexit lesson – Barnier

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because they would really like to spend more of our money. We have given them three more years of paying large sums into the EU and that is enough time to adjust their budgets.”

The Liberal Democrat Brexit spokesman, Tom Brake, called Barnier’s language unfortunate but defended the sentiment. “Crashing out of Europe with no deal has the potential to inflict permanent damage on UK jobs and families. That is the hard reality of a hard Brexit,” he said. However, he said it was crucial both sides dialled down the rhetoric to make progress.

At Lake Como, Enrico Letta, the former Italian prime minister, said he was tired of the exchange of barbs. “I am very pessimistic – frankly speaking, we are all wasting time. What I see as very negative is the raising of a sort of very aggressive approach to each other and the two sides,” he told the BBC at the forum. “We are six months after the starting of article 50 and we have no more than 13 months to reach an agreement. And I think the risk of a disorderly Brexit is rising.”

Pierre Moscovici, the EU’s economic commissioner, said the negotiations

needed to make progress by “getting rid of the past ... by being clear on financial commitments and citizens’ rights”. He appeared to back Barnier’s assessment that weak growth in the UK would follow its departure. “I think that economically I’m confident being a European is a positive asset.”

Yesterday, Davis repeated his insistence that there was no legal obligation for the UK to pay for EU projects after leaving the bloc, but conceded there were “moral or political” reasons to reach a settlement.

Both Davis and No 10 sources have denied reports in the Sunday Times that May is preparing to agree on a bill of about £50bn, set to be announced after the Tory party conference. Davis said the story was “nonsense ... completely wrong” and that the UK position was not yet settled. “They have set this up because they are trying to play time against money,” he told the BBC’s Andrew Marr Show.

Under Whitehall plans, the UK would pay between £7bn and £17bn a year to Brussels for three years after Britain leaves the EU in March 2019, the newspaper said.

“Time is not running out. We have a two-year process,” said Davis. “Every time we come to something serious there will be a pressure exercise of this sort. Money is incredibly important – it is the thing that frightens them most.”

Comparing the financial settlement to a hotel bill, Davis said UK negotiators were checking the details, not making a counter offer, though he conceded Britain might have a moral obligation to make good on its commitments.